

**From:** Nguyen, Quoc [Nguyen.Quoc@epa.gov]  
**Sent:** 3/14/2019 2:38:21 PM  
**To:** Beck, Nancy [Beck.Nancy@epa.gov]  
**Subject:** FOIA litigation matter - need your immediate help

**Importance:** High

Hi Nancy,

**Request:** I need you to complete quick search your F-Drive/One Drive for any records on the following highlighted categories (ethics-related). **Timing:** before 2:00 pm?

We already searched yours Justina and Kevin Minoli's emails so no need to check emails; we have all of draft determinations from those emails. We also provided records from previous FOIA responses. I think we covered everything, but I would like to double check everything (and win this FOIA case against NRDC).

Thank you for your help. Quoc

- a. *Category 2:* Any records indicating whether Deputy Assistant Administrator Nancy Beck recused herself or sought a waiver from any agency ethics official to participate in any TSCA rulemakings as an EPA or federal government official, and any records indicating whether the waiver was granted.

On July 26, 2017, a member of my staff, Scott Sherlock, provided to NRDC a copy of the June 9, 2017 Recusal Statement and the June 8, 2017 Impartiality Determination to NRDC. See Exhibit 8, Email from Mr. Sherlock, dated July 26, 2017. EPA's Department of Justice counsel also provided the two documents to NRDC on October 25, 2017. Exhibit 12, Department of Justice letter to NRDC, dated October 25, 2017. According to the Recusal Statement, since Dr. Beck holds an Administratively Determined position and not subject to Executive Order 13,770, she has not received any "waivers" pursuant to those provisions.

We also provided the final January 11, 2018 impartiality determinations (and withheld drafts).

- b. *Category 3:* Any records indicating the steps, if any, EPA took to shield Deputy Assistant Administrator Nancy Beck from involvement in any TSCA rulemakings.

The June 9, 2017 Recusal Statement, June 8, 2017 Impartiality Determination, and January 11, 2018 were responsive to Category 3 and produced to NRDC on July 26, 2017 and on October 25, 2017. The two records indicated that Dr. Beck was not shielded from working on any TSCA rulemakings. For example, according to the June 8, 2017 Impartiality Determination, Kevin Minoli stated, "...I have decided to allow you to participate fully in matters of general applicability, including rulemaking, including consideration of any comments that were made by ACC." See Exhibit 8, at 4.

- c. *Category 4:* Any records indicating whether Deputy Assistant Administrator Nancy Beck is subject to the obligations of Executive Order 13,770, and whether and how she is meeting the obligations of that Executive Order, including the Ethics Pledge contained in Section 1 of that Order.

The June 9, 2017 Recusal Statement is responsive to Category 4 and was produced to NRDC on July 26, 2017 and October 25, 2017. The Recusal Statement stated that Dr. Beck was not subject to Executive Order 13,770 because she holds an Administratively Determined position. See Exhibit 8 at 6-7 (Recusal Statement). EPA also provided NRDC a copy of Dr. Beck's resume. See Exhibit 12, (EPA-00007-00008).

- d. *Category 5:* Any records indicating the authority under which Deputy Assistant Administrator Nancy Beck was appointed or hired to her current position at EPA.

On October 25, EPA provided three records to NRDC that were responsive to Category 5: Statement of Work (EPA-00014); Office of Administration and Resources Management Welcome Letter, dated April 26, 2017 (EPA-00001-00003); Office of Administration and Resources Management Welcome Letter, dated July 13, 2017 (EPA-00004-00006). *See Exhibit 12.*

- e. *Category 6:* Any records indicating Deputy Assistant Administrator Nancy Beck's civil service status.

The Notification of Personnel Action SF 50 (EPA-00015-00016) provides Dr. Beck's civil service status. The record was produced to NRDC on October 25, 2017. *See Exhibit 12.*

- f. *Category 7:* Any records indicating Deputy Assistant Administrator Nancy Beck as appointed or hired to fill a "scientific, engineering, professional, legal, [or] administrative position" under 42 U.S.C. section 300j-10.

On October 25, 2017, EPA provided three records to NRDC: Statement of Work (EPA-00014-00014); Office of Administration and Resources Management Welcome Letter, dated April 26, 2017 (EPA-00001-00003); and Office of Administration and Resources Management Welcome Letter, dated July 13, 2017 (EPA-00004-00006). The records indicate that her position was an Excepted Service Administratively Determined position. *See Exhibit 12.*

- g. *Category 8.* Any records indicating how many personnel currently serving at EPA were appointed or hired to fill "scientific, engineering, professional, legal, [or] administrative positions" under 42 U.S.C. section 300j-10, and when they were appointed or hired under that provision.

An Excel list of political appointees (EPA-00017-00019) provides the number of EPA personnel who were appointed or hired under the cited statute. This information was provided to NRDC on October 25, 2017. *See Exhibit 12.*

Call me if you have any questions. Thanks!

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